

#12

✓ NOV, 6 2009

**Montie Miner****Subject:** RE: Stop Mail Petition**RECEIVED  
CENTRAL FAX CENTER****NOV 06 2009**USPTO - GOV  
Attn: Thurman Page

Dear Mr. Page,

Thank you for responding to my e-mail regarding, ( Petition To Accept Unavoidably Delayed Payment of Maintenance Fee In An Expired Patent ). I will be faxing this information to, The Centralized Facsimile Number, (571) 273-8300 you have directed. I appreciate all the help you have provided.

Sincerely,

*Montie H Miner*  
Montie Miner  
Director of Business Development**RECEIVED****NOV 20 2009****OFFICE OF PETITIONS**

**Larson Engineering, Inc.**  
5757 Phantom Drive, Suite 200  
St. Louis, MO 63042-2428  
314.731.4710 Fax: 314.731.4712  
[mminer@larsonengr.com](mailto:mminer@larsonengr.com)

**Larson**  
[www.larsonengr.com](http://www.larsonengr.com)

**From:** montiemhm@cs.com [mailto:montiemhm@cs.com]  
**Sent:** Friday, November 06, 2009 12:53 PM  
**To:** Montie Miner  
**Subject:** Fwd: Stop Mail Petition

—Original Message—

**From:** Page, Thurman <Thurman.Page@USPTO.GOV>  
**To:** 'MontieMHHM@cs.com' <MontieMHHM@cs.com>  
**Sent:** Wed, Nov 4, 2009 8:07 am  
**Subject:** RE: Stop Mail Petition

Communication by email is not a proper response.

Correspondence with respect to this matter should be addressed as follows:

**By Mail:** Mail Stop PETITION  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**By hand:** U. S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

**From:** MontieMHM@cs.com [mailto:MontieMHM@cs.com]  
**Sent:** Friday, October 30, 2009 10:09 PM  
**To:** Page, Thurman  
**Cc:** moctool@earthlink.net; MontieMHM@cs.com  
**Subject:** Fwd: Stop Mail Petition

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**NOV 06 2009**

In a message dated 10/30/2009 2:27:32 PM Pacific Daylight Time, [moctool@comcast.net](mailto:moctool@comcast.net) writes:

Mr. Page,

I am forwarding to you the information requested by your office order to have my patent reinstated per our recent discussions. If you require additional information please let me know as the deadline is closing.

Sincerely,

  
Montie H Miner

A-1

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**MOC Tool Works, L.L.C.**

Montie H. Miner, member  
3431 Mayville Road, Gracile City, IL 62040  
Phone: 618-931-1490/ Fax 618-931-1491  
Cell: 618-918-2960  
E-mail: [montie@minerllc.com](mailto:montie@minerllc.com)

Wanda M. O'Connor, member  
P.O. Box 373 Hoboken, NJ 07030  
Phone: 201-714-7000/ Fax 201-659-1797  
Cell: 908-334-3158  
E-mail: [wanda@wandaolink.com](mailto:wanda@wandaolink.com)

September 30, 2008

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OFFICE OF PETITIONS

Joseph A. Fenton  
Attorney at Law  
7711 Bonhomme  
Suite 300  
St. Louis, MO 63105

Hi Joe,

I am hoping that you can help me clear up a matter that I have great concern for.

While updating our patent payment spread sheet, I went to the following website to update my information [www.uspto.gov](http://www.uspto.gov) to my surprise, I learned that our patent # 5736182 Power Tool Drives had expired. The reason given was failure to pay the annual requirement.

I followed up immediately and found that we had paid each time money was due and did so at each time you requested. The enclosed bank statement from 2005 shows that on September 12, 2005, check # 1037 for the amount of \$1,800.00, was issued to Joseph Fenton for payment of Maintenance fee for Paul & Goer.

Enclosed please find the information found: Patent site regarding expired patent, checkbook register from MOC Tool Works, L.L.C for 2005, patent payment letter from Joe, copy of canceled check issued for paul and goer payment. (Joe, I am still waiting for the copy of this cashed check from the bank, from Moc Tool account. Didn't want to hold up this letter in the process.) Copies of checks issued from DOC personal account for other patent payments.

Kindly investigate and correct this. If the licensee demands return of all the royalties they have paid to us on the tools they have manufactured under this patent we will suffer a severe loss. For this reason it is important that this problem be corrected immediately.

I look forward to hearing from you.  
All the best,

  
Wanda

cc: Montie Miner  
Enclosures

Feb 17 03 01:34 FENLON AND FENLON

JF400P-1200

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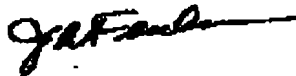
Joseph A. Fenlon  
Attorney at Law  
201 South Franklin  
Suite 300  
St. Louis, Missouri 63103

Date: 02/16/2009	Re: 02/16/2009
PATENTABLE TRANSMITTAL SHEET	
To: David H. O'Connor	From: February 17, 2009
Company: MOC Tool Works	YOUR USE OF THIS TRANSMITTAL SHEET
Reference: 201-000-1257	date
	no
	patents

Dear David:

- Please enclosed are to update you of the patent used for tools relating to the MOC patents.
- The second maintenance fee on Patent No. 6,847,252, Reversible Ratchet is due - that fee will be \$1,215.00. *DOC/PNC JE 214 2/20/05 \$1,200*
- The first maintenance fee on Patent No. 6,282,099, Flathead Ratchets is due on or before March 2, 2009; that fee will be \$1,100.00. *DOC/PNC JE 215 2/20/05 \$1,100*
- The second maintenance fee on Patent No. 6,282,099, Flathead Ratchets will be due on or before October 2009; that fee will be \$1,200.00. *DOC/PNC JE 218 2/20/05 \$1,200*
- Another \$1,200.00 is due on the patent I am presently working on. *JE 218 2/20/05 \$1,200*
- Please forward me instructions and the funds for the tools you want me to prepare.

Sincerely, Joseph A. Fenlon



Please note on the above memo from Mr. Fenlon regarding monies due:

Item #1: Patent # 6,847,252 Reversible Ratchet second maintenance payment.  
Mr. Fenlon requested: \$1800.00, the actual fee due was \$1,215.00. Difference of \$385.00

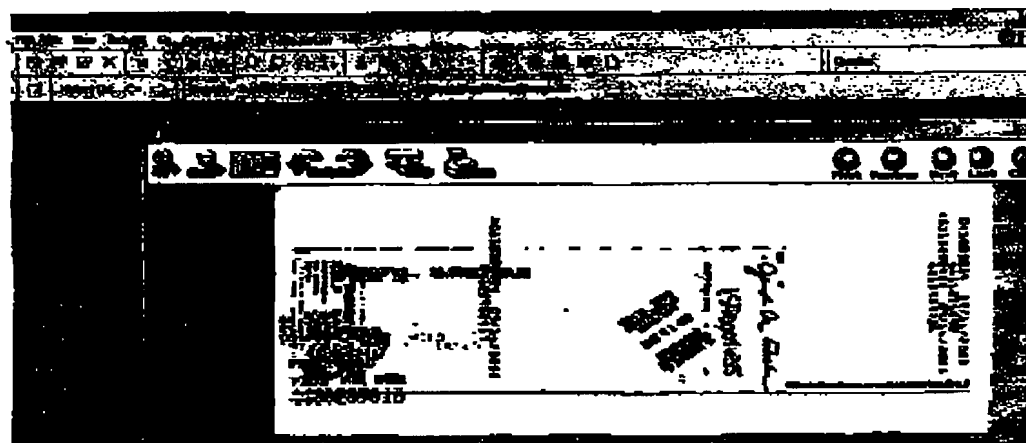
Item #2: Patent # 6,282,099 Flathead Ratchets, first maintenance fee Mr. Fenlon Requested \$1100.00. The actual fee due was \$450.00 Difference of \$650.00.

Item #3 Patent # 5,738,192 Pawl & Gear, Mr. Fenlon requested \$ 1800.00, the actual maintenance due was \$1240.00. Difference \$560.00

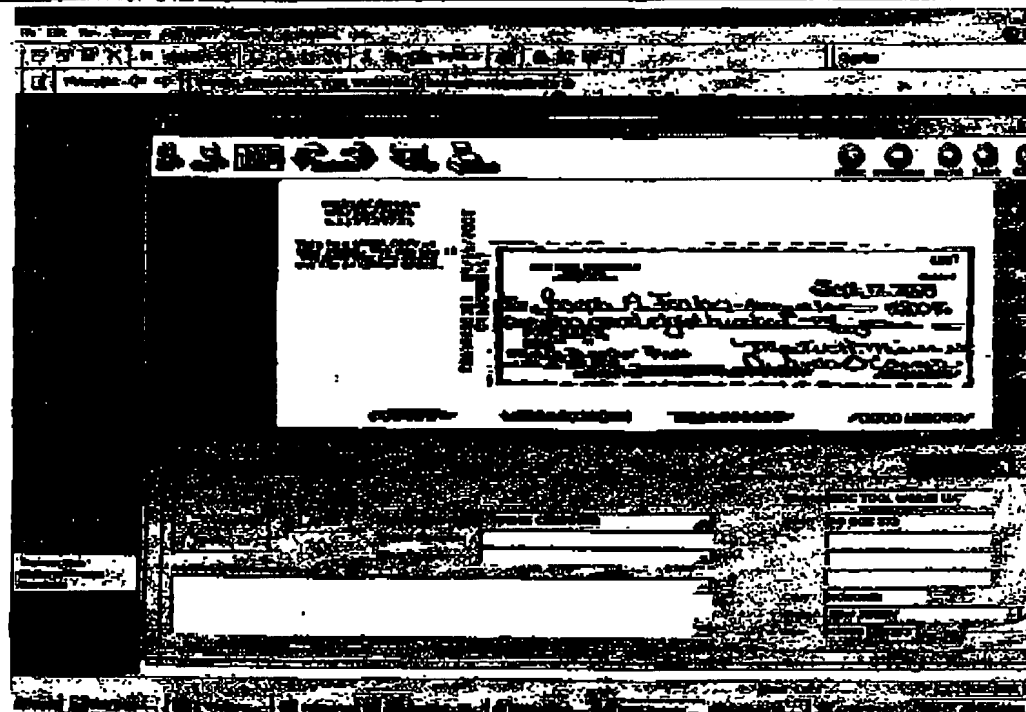
Although there was not an actual written agreement between Mr. Fenlon and MOC Tool Works, LLC that he would be responsible for payment of the maintenance fees, he chose to take this upon himself.

When he filed the Patent application, he chose to list himself under: "address for fee purposes" so the notification for "Maintenance Fee Reminder" mailed on 11-02-2005 was sent to him. We had no way of knowing this remained unpaid.

Furthermore, if you notice the difference between the actual maintenance fee and the amount Mr. Fenlon requested, and since no refund of monies were ever issued to MOC Tool Works, LLC., Mr. Fenlon compensated himself for payment of those fees.



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**Montie Miner**

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**From:** montiemhm@cs.com  
**Sent:** Friday, November 06, 2009 12:53 PM  
**To:** Montie Miner  
**Subject:** Fwd: Stop Mail Petition

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**-----Original Message-----**

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Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**By hand:** U. S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

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**Sent:** Friday, October 30, 2009 10:09 PM  
**To:** Page, Thurman  
**Cc:** moctool@earthlink.net; MontieMHM@cs.com  
**Subject:** Fwd: Stop Mail Petition

In a message dated 10/30/2009 2:27:32 PM Pacific Daylight Time, [moctool@comcast.net](mailto:moctool@comcast.net) writes:

Mr. Page,

I am forwarding to you the information requested by your office order to have my patent reinstated per our recent discussions. If you require additional information please let me know as the deadline is closing.

Sincerely,

Montie H Miner

Statement pages = 3 in total

**Additional Attached Items:**

- A- 1<sup>st</sup> Letter to Joseph A. Fenlon regarding finding of expired patent id # 5738192 = 1 Page
  - B. - Notice from Joe Fenlon to MOC Tools Works regarding patent payments & due dates. = 1 page
  - C. - Proof of payment to Joe Fenlon for Patent Id # 5738192 = 1 page
  - D. - Correspondence to Joe Fenlon from Wanda O'Connor = 8 pages
  - E. - Correspondence to Attorney - Flynn, Thiel - asking for help with communication  
Between Joe Fenlon & myself (Wanda) = 1 page
  - F. - Correspondence from Mark Maki @ Flynn Thiel to Joe Fenlon, Mark usually copied me on the email  
or forwarded them to me. Note: Joseph Fenlon never responded directly to Wanda O'Connor in  
writing. = 9 pages
- 

Thank you for taking the time to examine the information provided. Hopefully we will have be able to reactivate/correct the status of our expired patent ID # 5738192 Power Tool Drives. I feel that dealing directly with the Patent office is my best option to get this situation straightened out immediately. MOC Tool Works, L.L.C. Is a small company who is just making ends meet. Mr. Fenlon forced our hand to use an attorney to get him to communicate in writing. It is my opinion that his intention was to further challenge us financially.

Your time and effort is greatly appreciated by my partner, Wanda O'Connor and myself.  
Yours truly,

Montie H. Miner  
MOC Tool Works, L.L.C.

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Page 1 of 2

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D-1

MocTool

**From:** "MOC Tool" <mocool@comcast.net>  
**To:** "Joseph Fenlon" <jafen@aol.com>  
**Cc:** "Montie H. Miner" <MontieMHM@cs.com>; "Mark L. Maki" <mark.maki@flynnthiel.com>  
**Sent:** Friday, April 17, 2009 2:45 PM  
**Subject:** Fw: Phone Conversation - request MasterCard Information

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Joe,

Your lack of response to my email requests is totally unprofessional.  
I ask that you send me the information requested below immediately.  
This situation must be repaired.

**Please send me a reply email with your  
MasterCard information;**

**Account #:**

**Payment Date:**

**Payment Amount:**

**Also any contact information in the description of payment area:**

You were responsible for the payment of this patent. You were handling  
all of our patent payments. Funds were sent to you immediately, when you requested  
payment.

Usually by express mail. Your lack of effort to help repair this situation is unacceptable.

You created this mess, and if you did pay this patent, like you said that  
you did, provide me with the necessary information to straighten it out.

Unless of course you did not pay the patent, therefore you are unable to  
provide the information. So which is it Joe?

Your lack of response has created even a bigger problem if the Patent office  
does not accept my explanation, due to lapse in time for you to respond to not only  
me but to Marki Maki at Flynn Thiel's office.

Be a man Joe, tell me the truth about the payment, and provide the evidence.  
Don't force my hand to get on a plane and deal with you face to face.  
Wanda

----- Original Message -----

**From:** MOC Tool  
**To:** Joseph Fenlon  
**Cc:** MontieMHM@cs.com  
**Sent:** Thursday, March 12, 2009 1:24 PM  
**Subject:** Phone Conversation - request MasterCard Information

Joe,

Thank you for taking the time to speak with me this morning.

Please make this a top priority, whenever you have requested  
payment from us, I have always responded immediately. Please  
be so kind as to do the same for us.

Please send me a reply email with your

4/21/2009



Page 2 of 2

D-2

MasterCard information;

Account #:

Payment Date:

Payment Amount:

Also any contact information in the description of payment area:

By your providing this information to me, I too may  
work on solving the patent payment problem with the  
pawl and gear.

We are running out of time, with regard to fixing the problem.  
We are already at a huge disadvantage with the gap in  
response to this situation with dealing with the patent office.

Please provide me with this information as quickly as possible,  
Montie & I would greatly appreciate it.

Best Regards,

Wanda

4/21/2009

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Page 1 of 1

D-3

**MocTool**

**From:** "MOC Tool" <mocool@comcast.net>  
**To:** "Joseph Fenlon" <JAFEN@aol.com>  
**Cc:** <MontieMHM@cs.com>  
**Sent:** Thursday, March 12, 2009 1:24 PM  
**Subject:** Phone Conversation - request MasterCard Information

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Joe,

Thank you for taking the time to speak with me this morning.

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Please make this a top priority, whenever you have requested payment from us, I have always responded immediately. Please be so kind as to do the same for us.

Please send me a reply email with your MasterCard information;

Account #:

Payment Date:

Payment Amount:

Also any contact information in the description of payment area:

By your providing this information to me, I too may work on solving the patent payment problem with the pawl and gear.

We are running out of time, with regard to fixing the problem. We are already at a huge disadvantage with the gap in response to this situation with dealing with the patent office.

Please provide me with this information as quickly as possible. Montie & I would greatly appreciate it.

Best Regards,

Wanda

4/21/2009

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D-4

**MocTool**

**From:** "MOC Toof" <moctool@comcast.net>  
**To:** "Joseph Fenlon" <jafen@aol.com>  
**Cc:** "Mark L. Maki" <mark.maki@flynnthiel.com>; "Montie H. Miner" <MontieMHM@cs.com>; "Montie H Miner" <mminer@larsonengr.com>  
**Sent:** Wednesday, January 28, 2009 6:27 PM  
**Subject:** Please contact Mark Maki

Hi Joe,  
Just following up, please contact Mark Maki, he will need a copy of your credit card statement so that we can proceed with correcting the non payment status of our patent.

His contact information is:  
Mark L. Maki  
Flynn, Thiel, Boutell & Tanis, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: 269.381.1156  
Fax: 269.381.5465  
Video: 269.382.6131  
www.flynnthiel.com  
mark.maki@flynnthiel.com  
Mark's cell phone is 269.370.4093

Joe, if for some reason you were mistaken and did not pay this patent, Please just say so, we must rectify this situation, no matter what occurred. Our future business with Snap On depends on this patent, whether you paid it or not. We are also very vulnerable if others discover the patent and manufacture tools using it. We would not be able to be paid for any tool using that patent if they had done so in the time the patent expired.

You know that our funds are limited, getting the patent reinstated is important. So please help us.....

Best Regards,  
Wanda

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D-5

**MocTool**

**From:** "MOC Tool" <moctool@comcast.net>  
**To:** "Joseph Fenlon" <jafen@aol.com>  
**Cc:** "Montie H. Miner" <MontieMHM@cs.com>; <mark.maki@flynnthiel.com>  
**Sent:** Wednesday, January 07, 2009 1:20 AM  
**Subject:** Pawl & Gear Patent

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Hi Joe,

As per our conversation the other day, we discussed the pawl and gear patent that has expired according to the patent office. It expired due to non payment of Maintenance fee. In October 2008 you said that payment was made but you would need time to locate the method of payment.

When we spoke on Monday the 5<sup>th</sup> of January, I was delighted to hear that you found the credit card statement with the payment on it. You stated that although you found the statement, that you did not have a paid receipt from the patent office.

I informed you that I had spoken to Mr. Mark Maki from Flynn, Thiel's office. Mr. Thiel is semi-retired so Mr. Mark Maki is assisting with his clients. I sought out additional input with regard to where we stand and we can do to correct the situation.

Mark will be glad to help us, but he needs your cooperation. We have a small widow to correct the problem. So your immediate attention is necessary. He stated that as long as the patent was paid, we have two possible avenues to solve the problem, one is unintentional and the other is unavoidable.

Please contact Mark Maki. His contact information is as follows:

Mark L. Maki  
Flynn, Thiel, Boutell & Tanis, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: 269.381.1156  
Fax: 269.381.5465  
Video: 269.382.6131  
www.flynnthiel.com  
mark.maki@flynnthiel.com

In addition, I would appreciate if you would put in writing, the explanation you related to me, regarding how we are still protected if we have lost the pawl and gear patent.

Since time is of the essence I would appreciate your giving this your immediate attention.

Looking forward to hearing from you.  
Best Regards,  
Wanda

4/21/2009

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Page 1 of 1

D-6

**MocTool**

**From:** "MOC Tool" <mocool@comcast.net>  
**To:** "Joseph Fenlon" <jafen@aol.com>  
**Cc:** "Montie H. Miner" <MontieMHM@cs.com>; "Montie H Miner" <mminer@larsonengr.com>  
**Sent:** Friday, December 12, 2008 12:16 PM  
**Subject:** Checking on Status of situation

Good Morning Joe,  
I just wanted to touch base with you  
regarding your search for proof of payment.  
Where do we stand?  
Please let Montie and I know what kind of  
progress, if any, you have made regarding  
solving this problem.

Many thanks,  
Wanda

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D-7

**MocTool**

**From:** "MOC Tool" <mocool@comcast.net>  
**To:** "Joseph Fenlon" <jafen@aol.com>  
**Cc:** "Wanda O'Connor" <wandamarie@earthlink.net>; "Montie H. Miner" <MontieMHM@cs.com>;  
"Montie H Miner" <mminer@larsonengr.com>  
**Sent:** Sunday, October 26, 2008 4:37 PM  
**Attach:** MOCJoeFenlonck#1037.pdf  
**Subject:** Please see attachment

Hi Joe,  
Hope you had a great weekend.  
Attached you will find a scanned copy  
of the check issued for payment of the Pawl  
and Gear Patent.

This information should help with regard to  
tracking down the payment and how it was  
made.

Montie and I appreciate that you will give  
this situation your immediate attention.

Best Regards,  
Wanda

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D-8

**MocTool**

**From:** "Dominick O'Connor" <oconnor2oconnor@optonline.net>  
**To:** "Joseph Fenlon" <jafen@aol.com>  
**Cc:** "Montie H. Miner" <MontieMHM@cs.com>; "Montie H Miner" <mminer@larsonengr.com>  
**Sent:** Monday, October 06, 2008 9:34 AM  
**Subject:** Greetings

Good Morning Joe,  
Hope you had a good weekend.  
Did you receive my Express Mail package?

If so did you have time to look into what happened  
with the Pawl and gear patent?

If the facts from the website are correct, where  
do we stand and how can we rectify this situation?

Please let me know your comments as soon as possible.  
I appreciate your cooperation regarding this matter.  
All the best,  
Wanda

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E-1

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NOV 20 2009

D. O'Connor/MOC TOOL

From: "MOC Tool" <mocool@comcast.net>  
To: "Dale H. Thiel" <mail@flynnthiel.com>  
Sent: Friday, November 21, 2008 5:23 PM  
Attach: patentpayments.pdf; BibliographicDataStatus 05 17 2006.pdf; ExpiredNotice 04 14 2006.pdf;  
Pat5738192.pdf; FenlonPatentLtr 09 2008.wpd; MOCJoeFenlonck#1037.pdf  
Subject: Fw: Letter to Joe -below are 5 attachments including Joe's letter

OFFICE OF PETITIONS

Hi Gina,

I apologize for the delay in responding, I was hoping to get a response from Joe Fenlon first. He is the attorney who was responsible for the payment of the expired patent. This is an awkward position to be in.

He finally responded regarding the situation, he is in the process of tracking down his method of payment. He is positive that he paid the patent. Attachment MOCJoeFenlonck# is the check issued to him for the payment of the patent. Attachment Fenlon Patent is the letter I addressed to Joseph Fenlon which describes the problem. It is in the WordPerfect 12 form, I hope you can open it, if not I will resend it in a different form.

The other attachments are scanned print outs from the USPTO you will find the information pertaining to the patent that we were told has expired.

I greatly appreciate the assistance of your firm with regard to solving this situation. I can be reached on my cell phone at any time of the day. 908-334-3158, if for some reason I do not answer please leave a message and I will respond immediately.

Many thanks,  
Wanda

11/21/2008

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Page 1 of 4

F-1

**MocTool**

**From:** "Mark L. Maki" <mark.maki@flynnthiel.com>  
**To:** "MOC Tool" <mocool@earthlink.net>  
**Sent:** Friday, April 17, 2009 2:58 PM  
**Subject:** FW: Phone Conversation - request MasterCard Information

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OFFICE OF PETITIONS

Wanda

I note your e-mails and forward an e-mail that was received from Joe while I was out last week on vacation. I had assumed you would have been copied and only now note you did not receive this information.

I will call shortly.

Regards,

Mark

Mark L. Maki  
Flynn, Thiel, Boutell & Tanis, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: 269.381.1156  
Fax: 269.381.5465  
Video: 269.382.6131  
www.flynnthiel.com  
mark.maki@flynnthiel.com  
\*\*\*\*\*

*This transmission is intended solely for the addressee, and may contain information that is privileged and/or confidential. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited by law. If you receive this communication in error, please notify us immediately.*

*Flynn, Thiel, Boutell & Tanis, P.C.  
mail@flynnthiel.com*

**From:** Joseph Fenlon [mailto:jafen@aol.com]  
**Sent:** Wednesday, April 08, 2009 5:23 PM  
**To:** Mark L. Maki  
**Subject:** RE: Phone Conversation - request MasterCard Information

I HAVE GONE THROUGH EVERYTHING AND CANNOT FIND PROOF THAT THE MAINTENANCE FEE HAS BEEN PAID. THERE WERE TWO MAINTENANCE FEES DUE. I CHECKED THEM BOTH OFF AS HAVING BEEN PAID. I RECEIVED A RECEIPT AND ACKNOWLEDGEMENT OF PAYMENT ON ONE. I WOULD NOT HAVE CHECKED THEM OFF IF THEY HAD NOT BEEN PAID. I DID FOLLOW A DOCKET ON THOSE FEES AND MY RECORDS INDICATE I RESPONDED NM TIMELY. I DO NOT KNOW WHAT HAPPENED TO THE RECEIPT. RECEIPTS HAVE BEEN LOST BEFORE AND THEY EVENTUALLY TURNED UP.

**From:** Mark L. Maki [mailto:mark.maki@flynnthiel.com]  
**Sent:** Thursday, March 12, 2009 3:47 PM

4/20/2009



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Page 2 of 4

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F-2

**To:** Joseph Fenlon**Cc:** MOC Tool**Subject:** RE: Phone Conversation - request MasterCard Information

Dear Mr. Fenlon:

I note today's request from Wanda O'Connor asking for confirming information as to the payment that you asserted had been made relative to USP 5,738,192. We had been evaluating this issue based upon the information you provided to Ms. O'Connor and then to me in our telephone discussion. Essentially, the position has been that the fee was paid but not applied to the '192 patent. I further reviewed the information you provided to me, namely, that you made a payment of \$1000 on August 25, 2006, which presumably was applied to the '192 patent. The lack of good documentation already has been problematic. However, two discrepancies have come to light, and I question whether this payment was made toward the '192 patent or alternatively, to some other unrelated matter.

First, the amount \$1000 does not appear to match the amount that would have been due for the maintenance fee. I have attempted to determine the fee amounts which were due in 2006 and believe the total amount due for the maintenance fee and surcharge for a small entity would have been about \$1215.00 and not \$1000.00. Even without a surcharge, I believe the fee should have been about \$1150. Hence, the amount you identified does not match the amount actually due.

Further, the last date to pay the maintenance fee (at the end of the 6-month grace period) was April 14, 2006. According to my notes, you indicated your payment was made on August 25, 2006 which date would have been too late for the maintenance fee in question since it post-dates the end of the grace period.

Based on the foregoing, please reconsider and confirm whether the payment you are referring to, in fact was actually paid toward the '192 patent. If we are to proceed based upon actual payment of the fee, we need to quickly determine whether you have any actual documentary evidence of such payment which matches the fee amount and time frame.

To file a petition for reinstatement of the '192 patent, we need to establish "unavoidable" delay which is a relatively high standard. In this regard, if the fee was not paid, we need to know this, since this changes the approach.

In addition to determining if the fee was paid, and any supporting documents, we also need to look at preparing a written explanation of the procedures in place and the actions taken to pay the fee (after the client payment was received from Ms. O'Connor and deposited). In this regard, I note some discussion in the MPEP of meeting unavoidable delay by establishing the docketing procedures in place and how such procedures may have failed due to an unusual action by staff or the like. We should discuss this possibility.

As an additional matter, I also note that the USPTO records show that a maintenance fee reminder that was issued by the USPTO on November 2, 2005. We likely need to provide an explanation of why such notice did not prompt payment, or if the notice was not received, how this may have occurred. I note the USPTO records show your address at One Metropolitan Square which differs from your current address. Hence, we should review whether a change of address may have contributed to the current situation. Nevertheless, I also note that the MPEP places a significant burden upon us attorney's to update records, such that this issue probably cannot be resolved solely by relying upon a change of address.

I await your reply.

Regards,

Mark

Mark L. Maki  
Flynn, Thiel, Boutell & Tanis, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: 269.381.1156  
Fax: 269.381.5465  
Video: 269.382.6131

4/20/2009

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www.flynnthiel.com  
mark.maki@flynnthiel.com  
\*\*\*\*\*

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Flynn, Thiel, Boutell & Tanis, P.C.  
mail@flynnthiel.com

**From:** MOC Tool [mailto:mocool@comcast.net]  
**Sent:** Thursday, March 12, 2009 1:26 PM  
**To:** Mark L. Maki  
**Subject:** Fw: Phone Conversation - request MasterCard Information  
**Importance:** High

----- Original Message -----

**From:** MOC Tool  
**To:** Joseph Fenion  
**Cc:** MontieMHM@cs.com  
**Sent:** Thursday, March 12, 2009 1:24 PM  
**Subject:** Phone Conversation - request MasterCard Information

Joe,

Thank you for taking the time to speak with me this morning.

Please make this a top priority, whenever you have requested payment from us, I have always responded immediately. Please be so kind as to do the same for us.

Please send me a reply email with your MasterCard information;

Account #:

Payment Date:

Payment Amount:

Also any contact information in the description of payment area:

By your providing this information to me, I too may work on solving the patent payment problem with the pawl and gear.

We are running out of time, with regard to fixing the problem. We are already at a huge disadvantage with the gap in response to this situation with dealing with the patent office.

Please provide me with this information as quickly as possible, Montie & I would greatly appreciate it.

Best Regards,

Wanda

4/20/2009

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Page 1 of 2

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**MocTool**

**From:** "Mark L. Maki" <mark.maki@flynnthiel.com>  
**To:** "Joseph Fenton" <jafen@aol.com>  
**Cc:** "Montie H. Miner" <MontieMHM@cs.com>; "MOC Tool" <mocool@earthlink.net>  
**Sent:** Wednesday, January 28, 2009 4:37 PM  
**Subject:** RE: Pawl & Gear Patent

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Dear Mr. Fenton;

Confirming my voice mail of today, I spoke with Wanda O'Connor as to the maintenance fee for the '192 patent and confirmed that I had not received any response to the e-mail below. Please call at your earliest convenience to discuss status and what we need to do to revive the patent. In particular, we would like to have a copy of any payment record showing payment of the maintenance fee, and then evaluate our position and determine best option for proceeding.

I look forward to talking to you and await your call. If you need to call after hours, my cell phone is 269.370.4093.

Regards,

Mark

Mark L. Maki  
Flynn, Thiel, Boutell & Tanis, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: 269.381.1156  
Fax: 269.381.5465  
Video: 269.382.6131  
www.flynnthiel.com  
mark.maki@flynnthiel.com  
\*\*\*\*\*

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Flynn, Thiel, Boutell & Tanis, P.C.  
mail@flynnthiel.com

**From:** MOC Tool [mailto:mocool@comcast.net]  
**Sent:** Wednesday, January 07, 2009 12:21 AM  
**To:** Joseph Fenton  
**Cc:** Montie H. Miner; Mark L. Maki  
**Subject:** Pawl & Gear Patent

Hi Joe,

As per our conversation the other day, we discussed the pawl and gear patent that has expired according to the patent office. It expired due to non payment of Maintenance fee. In October 2008 you said that payment was made but you would need time to locate the method of payment.

4/20/2009

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When we spoke on Monday the 5<sup>th</sup> of January, I was delighted to hear that you found the credit card statement with the payment on it. You stated that although you found the statement, that you did not have a paid receipt from the patent office.

I informed you that I had spoken to Mr. Mark Maki from Flynn, Thiel's office. Mr. Thiel is semi-retired so Mr. Mark Maki is assisting with his clients. I sought out additional input with regard to where we stand and we can do to correct the situation.

Mark will be glad to help us, but he needs your cooperation. We have a small widow to correct the problem. So your immediate attention is necessary.

He stated that as long as the patent was paid, we have two possible avenues to solve the problem, one is unintentional and the other is unavoidable.

Please contact Mark Maki. His contact information is as follows:

Mark L. Maki  
Flynn, Thiel, Boutell & Tanis, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: 269.381.1156  
Fax: 269.381.5465  
Video: 269.382.6131  
www.flynnthiel.com  
mark.maki@flynnthiel.com

In addition, I would appreciate if you would put in writing, the explanation you related to me, regarding how we are still protected if we have lost the pawl and gear patent.

Since time is of the essence I would appreciate your giving this your immediate attention.

Looking forward to hearing from you.  
Best Regards,  
Wanda

4/20/2009

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**MocTool**

**From:** "Mark L. Maki" <mark.maki@flynnthiel.com>  
**To:** "MOC Tool" <mocool@earthlink.net>  
**Sent:** Friday, December 12, 2008 3:50 PM  
**Subject:** RE: Gina, Just checking in

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Wanda

Further to my voice mail, feel free to call me at your convenience.

Regards,

Mark

Mark L. Maki  
Flynn, Thiel, Boutell & Tanis, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: 269.381.1156  
Fax: 269.381.5465  
Video: 269.382.6131  
www.flynnthiel.com  
mark.maki@flynnthiel.com  
\*\*\*\*\*

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Flynn, Thiel, Boutell & Tanis, P.C.  
mail@flynnthiel.com

**From:** MOC Tool [mailto:mocool@comcast.net]  
**Sent:** Friday, December 12, 2008 12:33 PM  
**To:** Flynn Thiel Boutell & Tanis  
**Subject:** Gina, Just checking in

Hi Gina,  
I just wanted to check in with you regarding the information below that I sent in November for Patent # 5738192.  
Do we have any information regarding status of this situation.  
I have not received any calls from your office as of yet. This could be good, meaning that I provided enough information for your office to look into the matter.

When you have the opportunity could you please let me know where we stand. I appreciate your assistance with this problem.

I hope that your Thanksgiving Holiday was a good one.  
We all caught a virus, and are still fighting it. Hope you are well.  
All the best,  
Wanda

4/20/2009

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Page 2 of 2

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— Original Message —

**From:** MOC Tool**To:** Dale H. Thiel**Sent:** Friday, November 21, 2008 5:23 PM**Subject:** Fw: Letter to Joe -below are 5 attachments including Joe's letter

Hi Gina,

I apologize for the delay in responding, I was hoping to get a response from Joe Fenlon first. He is the attorney who was responsible for the payment of the expired patent. This is an awkward position to be in.

He finally responded regarding the situation, he is in the process of tracking down his method of payment. He is positive that he paid the patent. Attachment **MOCJoeFenlonck#** is the check I issued to him for the payment of the patent. Attachment **Fenlon Patent** is the letter I addressed to Joseph Fenlon which describes the problem.

It is in the WordPerfect 12 form, I hope you can open it, if not I will resend it in a different form.

The other attachments are scanned print outs from the USPTO you will find the information pertaining to the patent that we were told has expired.

I greatly appreciate the assistance of your firm with regard to solving this situation. I can be reached on my cell phone at any time of the day. 908-334-3158, if for some reason I do not answer please leave a message and I will respond immediately.

Many thanks,  
Wanda

4/20/2009

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F8

**MocTool**

**From:** "Mark L. Maki" <mark.maki@flynnthiel.com>  
**To:** "MOC Tool" <mocool@earthlink.net>  
**Sent:** Friday, April 17, 2009 2:58 PM  
**Subject:** FW: Phone Conversation - request MasterCard Information

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Wanda

OFFICE OF PETITIONS

I note your e-mails and forward an e-mail that was received from Joe while I was out last week on vacation. I had assumed you would have been copied and only now note you did not receive this information.

I will call shortly.

Regards,

Mark

Mark L. Maki  
Flynn, Thiel, Boutell & Tanis, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: 269.381.1156  
Fax: 269.381.5465  
Video: 269.382.6131  
www.flynnthiel.com  
mark.maki@flynnthiel.com  
\*\*\*\*\*

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Flynn, Thiel, Boutell & Tanis, P.C.  
mail@flynnthiel.com

**From:** Joseph Fenlon [mailto:jafen@aol.com]  
**Sent:** Wednesday, April 08, 2009 5:23 PM  
**To:** Mark L. Maki  
**Subject:** RE: Phone Conversation - request MasterCard Information

I HAVE GONE THROUGH EVERYTHING AND CANNOT FIND PROOF THAT THE MAINTENANCE FEE HAS BEEN PAID. THERE WERE TWO MAINTENANCE FEES DUE. I CHECKED THEM BOTH OFF AS HAVING BEEN PAID. I RECEIVED A RECEIPT AND ACKNOWLEDGEMENT OF PAYMENT

10/30/2009

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ON ONE. I WOULD NOT HAVE CHECKED THEM OFF IF THEY HAD NOT BEEN PAID. I DID FOLLOW A DOCKET ON THOSE FEES AND MY RECORDS INDICATE I RESPONDEDNM TIMELY. I DO NOT KNOW WHAT HAPPENED TO THE RECEIPT. RECEIPTS HAVE BEEN LOST BEFORE AND THEY EVENTUALLY TURNED UP.

**From:** Mark L. Maki [mailto:mark.maki@flynnthiel.com]  
**Sent:** Thursday, March 12, 2009 3:47 PM  
**To:** Joseph Fenlon  
**Cc:** MOC Tool  
**Subject:** RE: Phone Conversation - request MasterCard Information

Dear Mr. Fenlon:

I note today's request from Wanda O'Connor asking for confirming information as to the payment that you asserted had been made relative to USP 5 738 192. We had been evaluating this issue based upon the information you provided to Ms. O'Connor and then to me in our telephone discussion. Essentially, the position has been that the fee was paid but not applied to the '192 patent. I further reviewed the information you provided to me, namely, that you made a payment of \$1000 on August 25, 2006, which presumably was applied to the '192 patent. The lack of good documentation already has been problematic. However, two discrepancies have come to light, and I question whether this payment was made toward the '192 patent or alternatively, to some other unrelated matter

First, the amount \$1000 does not appear to match the amount that would have been due for the maintenance fee. I have attempted to determine the fee amounts which were due in 2006 and believe the total amount due for the maintenance fee and surcharge for a small entity would have been about \$1215.00 and not \$1000.00. Even without a surcharge, I believe the fee should have been about \$1150. Hence, the amount you identified does not match the amount actually due.

Further, the last date to pay the maintenance fee (at the end of the 6-month grace period) was April 14, 2006. According to my notes, you indicated your payment was made on August 25, 2006 which date would have been too late for the maintenance fee in question since it post-dates the end of the grace period.

Based on the foregoing, please reconsider and confirm whether the payment you are referring to, in fact was actually paid toward the '192 patent. If we are to proceed based upon actual payment of the fee, we need to quickly determine whether you have any actual documentary evidence of such payment which matches the fee amount and time frame.

To file a petition for reinstatement of the '192 patent, we need to establish "unavoidable" delay which is a relatively high standard. In this regard, if the fee was not paid, we need to know this, since this changes the approach.

In addition to determining if the fee was paid, and any supporting documents, we also need to look at preparing a written explanation of the procedures in place and the actions taken to pay the fee (after the client payment was received from Ms. O'Connor and deposited). In this regard, I note some discussion in the MPEP of meeting unavoidable delay by establishing the docketing procedures in place and how such procedures may have failed due to an unusual action by staff or the like. We should discuss this possibility.

As an additional matter, I also note that the USPTO records show that a maintenance fee reminder that was issued by the USPTO on November 2, 2005. We likely need to provide an explanation of why such notice did not prompt payment, or if the notice was not received, how this may have occurred. I note the USPTO records show your address at One Metropolitan Square which differs from your current address. Hence, we should review whether a change of address may have contributed to the current situation. Nevertheless, I also note that the MPEP places a significant burden upon us attorney's to update records, such that this issue probably cannot be resolved solely by relying upon a change of address.

I await your reply.

Regards,

Mark

10/30/2009



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OFFICE OF PETITIONS

PTO/GB/85 (03-09)

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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at  
(571) 272-3282.Patent Number: 5738192Application Number: 08/715,439Issue Date: 4/14/1898Filing Date: 09/18/96**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent  
number (or reissue patent number, if a reissue) and (2) the application number of the actual  
U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s)  
is/are associated with the correct patent. 37 CFR 1.368(c) and (d).

Also complete the following information, if applicable:


The above-identified patent:

☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_;  
original application number \_\_\_\_\_  
original filing date \_\_\_\_\_☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class  
mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-  
1450 OR(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-  
8300.October 27, 2009

Date



Signature

Montie H. Miner

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO  
to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including  
gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount  
of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark  
Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND  
TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9198 and select option 2.

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ 1,240.00	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 1240.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700.00

5. MANNER OF PAYMENT

- ☐ Enclosed is a check for the sum of \$ \_\_\_\_\_
- ☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_
- ☒ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. \_\_\_\_\_

[Page 2 of 4]

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PTO/BA/05 (03-09)

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## 7. OVERPAYMENT

As to any overpayment made, please

☐

Credit to Deposit Account No. \_\_\_\_\_

OR

☐

Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

October 27 2009

Date

Montie H. Miner

Typed or printed name(s)

Registration Number, if applicable

3431 Maryville Road

Address

618-910-2868 -cell

Telephone Number

Granite City, IL 62040

Address

## ENCLOSURES:

☒

Maintenance Fee Payment

☒

Statement why maintenance fee was not paid timely

☒

Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)

☒

Other:

Additional Statement page, Proof of Payment to Attorney, correspondence to attorney Fenlon, Correspondence to Attorney Flynn, Thell, Correspondence between Attorney Maki of Flynn, Thell and Fenlon. Docketing info for MOC Tool Works, LLC

(Page 3 of 4)

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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

*Montie H Miner*  
Signature

October 27, 2009

Date

Montie H. Miner

Type or printed name

Registration Number, if applicable

### STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

#### Statement:

From Montie H. Miner, Inventor (of all our patents)  
Company name is MOC Tool Works, L.L.C. Original partners: Dominick O'Connor and Montie H. Miner.  
Wanda O'Connor bought her husbands share in September of 2005.

In October of 2008, Wanda was in the process of making a new patent payment schedule for our business. She was shown how to use the government patent site to look up the maintenance fees for our eight patents.

While learning how to use the site she came across the information that our patent id # USP 5 738 182 had expired due to failure of payment. She immediately took action to find out why it was claimed to be expired when she had paid our attorney (Joseph A. Fenlon) who was in charge of filing our patents, plus notifying us when the maintenance fees were due. We then sent the check made payable to him and he would pay the patents for our business. He was the one who provided the maintenance fee payment dates from when the partnership was first established back in 1995.

Wanda had issued a check to Mr. Fenlon for patent # USP 5 738 182 on Sept 9 2005, in the amount of \$ 1,800.00 for the second maintenance fee due October 2005. The funds were drawn from MOC Tool Works L.L.C. checking account, check # 1037. The check was deposited into his account on Sept 16, 2005. I have provided copies of the canceled check front and back sides.

Wanda has been working since October 2008 to correct this matter. Mr. Joseph Fenlon has not cooperated with her. He claims that he made the payment, but can not provide the receipt that it was paid. He has stalled providing us with the information on a regular basis. We then brought in another attorney who manages our Japanese patent to see if he could assist us in getting the information from Mr. Fenlon.

The only information that was provided to Mr. Maki was in a phone conversation, that Mr. Fenlon paid the patent in August of 2006 in the amount of \$ 1,000.00. But does not have a receipt other than his credit card statement.

On April 16<sup>th</sup> Wanda took matters into her own hands and tried again to contact someone at the Patent Office. She got lucky and they directed her to Mr. Thurman Page, he was so kind to assist her.

We have the correspondence that supports our efforts to resolve this matter. The patent that has expired, is one of the most important patents we have. We have been left vulnerable thanks to Mr. Fenlon. When you read through the documentation it will provide time line for conversations and attempts to address this situation as quickly as possible. The pages will be lettered A thru F. Docketing information is listed on 2<sup>nd</sup> and 3<sup>rd</sup> Statement page.

(Please attach additional sheets if additional space is needed)

(Page 4 of 4)

Statement page 2

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Docketing information for MOC Tool Works, LLC

Scott Tools Inc. Established in 1990/91 Dissolved - in 1995

members of the corporation: Dominick O'Connor, Scott Darrah, Montie H. Miner

responsibilities of: Dominick O'Connor- financial investor  
Scott Darrah- inventor  
Montie H. Miner - inventor

The goals of the corporation were to patent the inventor's ideas, then license tool manufacturers to produce and sell the product.

Liz Moczydlowski - Secretary for Scott Tools Inc.

Responsibilities all administration and clerical duties for running the office. This also included bookkeeping and payment of all bills.

Attorney for Scott Tools Inc. - Flynn, Thiel, Boutell &amp; Tanis, P.C.

2026 Rambling Road, Kalamazoo Michigan

attorney's responsibility: to submit the application for the patents applied for with the US patent office. The attorney would also be responsible for paying all of the patent maintenance fees. The firm would notify us in advance and bill us accordingly so that they could pay the fees. Then submit to us a paid statement.

Flynn, Thiel submitted two patents to the United States patent office for Scott Tools Inc. Both patents were approved.

The first patent was abandoned and the second will expire in 2012.

In 1995 Scott Tools Inc. Was dissolved

The assets of the company belong to Dominick O'Connor and Montie H. Miner. Scott Darrah chose to go in a different direction.

In 1995 MOC Tool Works, L.L.C. was established

members of LLC - Dominick O'Connor, &amp; Montie H. Miner

each has 50% of the business, all decisions are made by mutual consent

responsibilities of Dominick O'Connor- financial investor  
Montie H. Miner - inventor

The goals of the corporation were to patent the inventor's ideas, then license tool manufacturers to produce and sell the product.

In 2005 Wanda O'Connor purchased her husband's 50% of MOC Tool Works, LLC

Members: Montie H. Miner - inventor

Wanda O'Connor - CFO - and in charge of all administrative responsibilities

Attorney for MOC Tool Works, L.L.C.

Joseph Fenlon

7711 Bonhomme, Suite 300

St. Louis, Missouri 63105

attorney's responsibilities - to submit the applications for our six patents applied for with the US patent office. All of which were approved. The attorney would also be responsible for paying all of the patent maintenance fees. Joseph Fenlon would notify us in advance and bill us accordingly so that he could pay the fees.

Job Performance: In the beginning Mr. Fenlon's ability to perform his responsibilities seemed to be done well. The only complaint we had - he never provided a paid statement for any of the Maintenance Fees, he has always been negligent in this department of his responsibilities.

Mr. Fenlon never gave us a reason to distrust him, he was an acquaintance of mine before he became our attorney.

It was completely by accident that Wanda found out our patent had expired. While in the process of making a new patent payment schedule for our business. In October of 2008, she was shown how to use the government

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statement page 3

patent site to look up the maintenance fees for our patents.

While learning how to use the site she came across the information that our patent id # USP 5 738 192 had expired due to failure of payment. She immediately took action to find out why it was claimed to be expired when she had paid our attorney, Joseph A. Fenlon.

Wanda had issued a check to Mr. Fenlon for patent # USP 5 738 192 on Sept 9 2005, in the amount of \$ 1,800.00 for the second maintenance fee due October 2005. The funds were drawn from MOC Tool Works L.L.C. checking account, check # 1037. The check was deposited into his account on Sept 16, 2005. I have copies of the canceled check front and back sides.

Mr. Fenlon claims that he made the payment for Patent id # USP 5 738 192. He states that he does not have a receipt from the patent office, that he did not print one out at the time of payment.

To this day, Mr. Fenlon has not produced any proof of payment for this patent.

**Attorney for L.L.C.:**

Flynn, Thiel, Boutell & Tania, P.C.  
2026 Rambling Road  
Kalamazoo Michigan

attorney's responsibilities - to notify us when the maintenance fees were due on the patent that they were responsible for. That patent is approved in Japan, Canada, and Australia. The firm notifies us in advance and bills us accordingly so that they could pay the fees. They always send a receipt for our records that payment was paid.

Job Performance: This office has always handled it responsibilities in a professional manner. Bills, Invoices, and receipts were always submitted and provided in a timely process. They continue to do a good job.

**Liz Moczydlowski - Secretary for MOC Tool Works, L.L.C.**

Responsibilities - all administration and clerical duties for running the office. This also included bookkeeping and payment of all bills.

Liz worked for MOC Tool Works, until June of 2003.

Job performance: She always handled her responsibilities to the best of her ability. We were disappointed when she retired.

Wanda O'Connor (wife of Dominick O'Connor) - replaced Liz and handled all her responsibilities. She took over all administration and clerical duties for running the office. This also included bookkeeping and payment of all bills.

In September of 2005 Wanda O'Connor purchased her husbands shares of MOC Tool Works, LLC.

She handled and continues to handle the all Financial and administrative responsibilities for MOC Tool Works, L.L.C. Because of the incident that occurred with our Patent # USP 5 738 192, and that she now has the knowledge to pay the maintenance fees for our existing patents on line through the US Patent office, we have made it her responsibility to maintain all Patent Maintenance Fees.

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Statement pages = 3 in total

Additional Attached Items:

- A. - 1<sup>st</sup> Letter to Joseph A. Fenlon regarding finding of expired patent id # 5738192 = 1 Page
- B. - Notice from Joe Fenlon to MOC Tools Works regarding patent payments & due dates. = 1 page
- C. - Proof of payment to Joe Fenlon for Patent id # 5738192 = 1 page
- D. - Correspondence to Joe Fenlon from Wanda O'Connor = 8 pages
- E. - Correspondence to Attorney - Flynn, Thiel - asking for help with communication Between Joe Fenlon & myself (Wanda) = 1 page
- F. - Correspondence from Mark Makú @ Flynn Thiel to Joe Fenlon, Mark usually copied me on the email or forwarded them to me. Note: Joseph Fenlon never responded directly to Wanda O'Connor in writing. = 9 pages

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Thank you for taking the time to examine the information provided. Hopefully we will have be able to reactivate/correct the status of our expired patent ID # 5738192 Power Tool Drives. I feel that dealing directly with the Patent office is my best option to get this situation straightened out immediately. MOC Tool Works, L.L.C. Is a small company who is just making ends meet. Mr. Fenlon forced our hand to use an attorney to get him to communicate in writing. It is my opinion that his intention was to further challenge us financially.

Your time and effort is greatly appreciated by my partner, Wanda O'Connor and myself.  
Yours truly,

Montie H. Miner  
MOC Tool Works, L.L.C.

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**MOC Tool Works, LLC**

Monte H. Miner, member  
3431 Maryville Road, Granite City, IL 62040  
Phone: 618-831-1490/ Fax: 618-831-1491  
Cell: 618-910-2856  
E-mail: [monte@mhminer.com](mailto:monte@mhminer.com)

Wanda M. O'Connor, member  
P.O. Box 373 Hoboken, NJ 07030  
Phone: 201-714-7000/ Fax: 201-899-1787  
Cell: 808-394-3158  
E-mail: [wanda@wandaoc.com](mailto:wanda@wandaoc.com)

September 30, 2008

Joseph A. Fenton  
Attorney at Law  
7711 Bonhomme  
Suite 300  
St. Louis, MO 63105

Hi Joe,

I am hoping that you can help me clear up a matter that I have great concern for.

While updating our patent payment spread sheet, I went to the following website to update my information [www.uspto.gov](http://www.uspto.gov) to my surprise, I learned that our patent # 6738192 Power Tool Drives had expired. The reason given was failure to pay the annual requirement.

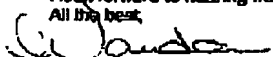
I looked up immediately and found that we had paid each time money was due and did so at each time you requested. The enclosed bank statement from 2005 shows that on September 12, 2005, check # 1037 for the amount of \$1,800.00, was issued to Joseph Fenton for payment of Maintenance fee for Patent & Gear.

Enclosed please find the information found: Patent site regarding expired patent, checkbook register from MOC Tool Works, LLC for 2005, patent payment letter from Joe, copy of canceled check issued for patent and gear payment. (Joe, I am still waiting for the copy of this cashed check from the bank, from MOC Tool account. Didn't want to hold up this letter in the process.) Copies of checks issued from DOC personal account for other patent payments.

Kindly investigate and correct this. If the licensee demands return of all the royalties they have paid to us on the tools they have manufactured under this patent we will suffer a severe loss. For this reason it is important that this problem be corrected immediately.

I look forward to hearing from you.

All the best,



Wanda

cc: Monte Miner  
Enclosures



Feb 17 09 01:30p HENLON AND HENLON

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Joseph A. Fenlon  
Attorney at Law  
231 South Hamilton  
St. Louis, MO 63105  
St. Louis, MO 63105

Trans - 010 824-1200

Fax - 010 824-1200

## FACSIMILE TRANSMITTAL SHEET

TO:	DATE:
Joseph A. Fenlon	February 17, 2009
FROM:	TIME:
MOC Tool Works	01:30p
RE: MOC Tool Works	ST. LOUIS, MO
201-698-1207	ST. LOUIS, MO

Message(s) Transmitted:

Dear Joseph:

- Monies asked you to assume you of the protest need for funds relating to the MOC patents.
- The second maintenance fee on Patent No. 6,647,252, Reversible Ratchets is due - that fee will be \$1600.00. *DOC/PNC 11-21-05 \$1,600*
- The first maintenance fee on Patent No. 6,262,899, Flathead Ratchets is due as of before March 3, 2008; that fee will be \$1100.00. *DOC/PNC 11-21-05 \$1,100*
- The second maintenance fee on Patent No. 6,262,899, Flathead Ratchets will be due in October 2008; that fee will be \$1800.00. *DOC/PNC 11-21-05 \$1,800*
- Another \$1800.00 is due on the patent I am presently working on. *DOC/PNC 11-21-05 \$1,800*
- Please disregard the instructions and the funds for the tasks you want me to perform.

Cory: Martin H. Miller

*JA Fenlon*

Please note on the above memo from Mr. Fenlon regarding monies due:

Item #1: Patent # 6,647,252 Reversible Ratchet second maintenance payment. Mr. Fenlon requested: \$1600.00, the actual fee due was \$1,215.00. Difference of \$385.00

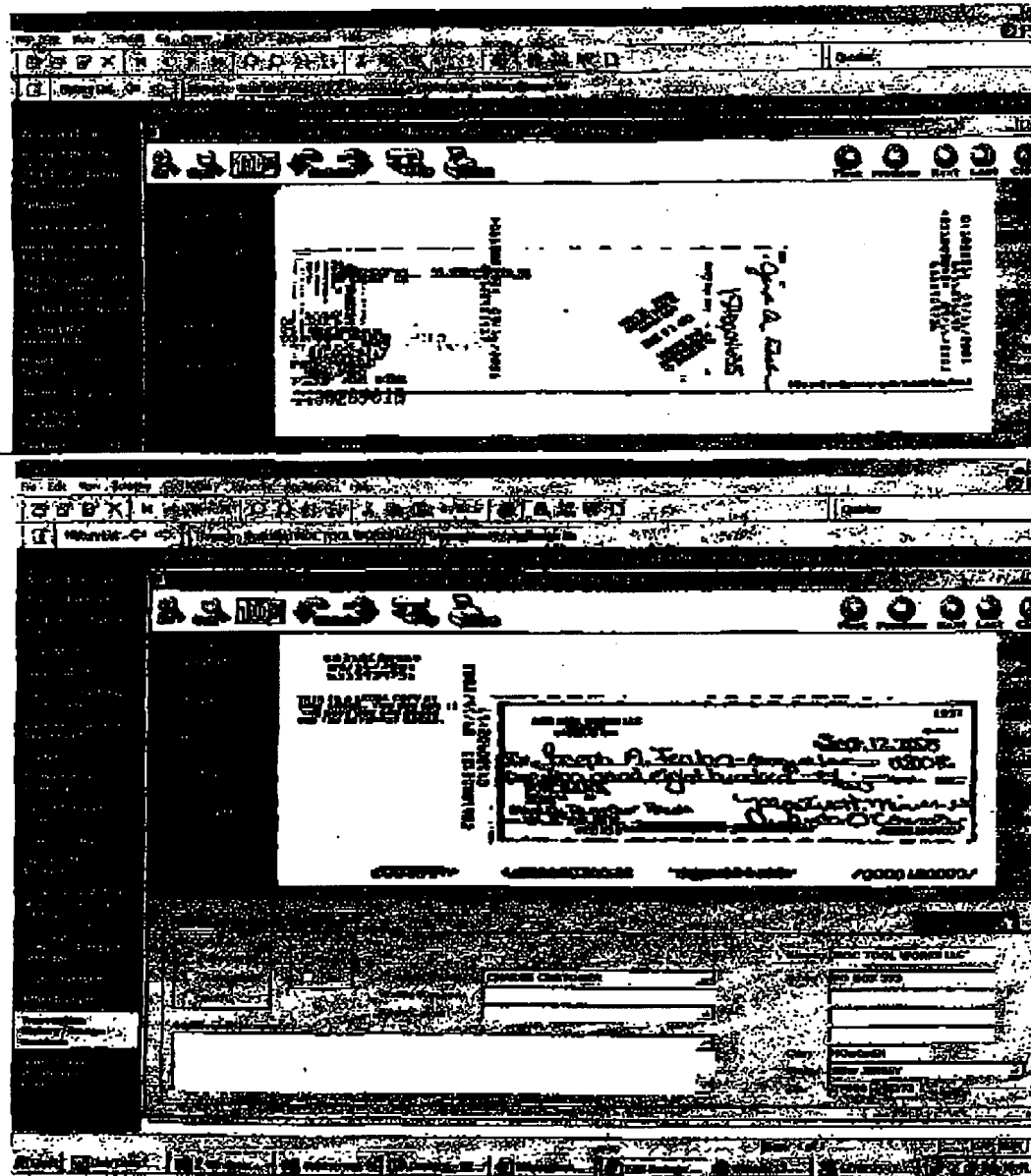
Item # 2: Patent # 6,262,899 Flathead Ratchets, first maintenance fee Mr. Fenlon Requested \$1100.00. The actual fee due was \$450.00 Difference of \$650.00.

Item # 3 Patent # 5,738,182 Pawl &amp; Gear, Mr. Fenlon requested \$ 1800.00, the actual maintenance due was \$1240.00. Difference \$560.00

Although there was not an actual written agreement between Mr. Fenlon and MOC Tool Works, LLC that he would be responsible for payment of the maintenance fees, he chose to take this upon himself.

When he filed the Patent application, he chose to list himself under: "address for fee purposes" so the notification for "Maintenance Fee Reminder" mailed on 11-02-2005 was sent to him. We had no way of knowing this remained unpaid.

Furthermore, if you notice the difference between the actual maintenance fee and the amount Mr. Fenlon requested, and since no refund of monies were ever issued to MOC Tool Works, LLC., Mr. Fenlon compensated himself for payment of those fees.



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